

Serial No. 10/670,257 Page 17

REMARKS/ARGUMENTS

Claims 1, 2, 3, 6, 7, 8, 9, 13, 14, 16, 17, 18, 22, 23, 33, 34, 36, 39, 41 and 44 have been amended.

Claims 5, 21, 35 and 40 have been cancelled.

Claim 1-4, 6-20, 22-34, 36-39 and 41-44 remain pending in the application.

The rejection of claims 1-4, 17-20, 33, 34, 39 and 44 under 35 U.S.C. 101 is avoided by amendment thereto by incorporating dependent claim 5 in claim 1.

Similar amendments have been made to claims 17, 33, 34, 39 and 44.

The rejection of claims 1-6, 9, 10-12, 17-22, 25-28, 33-37, 39-42 and 44 under 35 U.S.C. 102(e) as being anticipated by Black et al (US 7,143,153) (hereinafter Black) is respectfully traversed.

The present invention was implemented to list the resource types that meet a threshold criteria, which is quite different from Black which applies a threshold condition to specified resources. This is a patentably significant difference, both in implementation and in the application, and is reflected in applicants' claims. Claim 1, for example, recites:

- a. instructions for specifying a plurality of resource types for the network elements of the network, a resource type being defined by a capacity limit and a utilization;
- b. instructions for providing a utilization threshold for each specified type of resources;

Serial No. 10/670,257 Page 18

- c. instructions for measuring the utilization for all resources at a network element;
- d. instructions, for in response to a query from a user relating to a particular type of resource, comparing the utilization for all resources of the particular type as measured in step c) with the utilization threshold for said particular type for determining whether the utilization of any resource of said particular type is above the corresponding utilization threshold; and
- e. instructions for identifying in a report each resource of the particular type for which the utilization is above the corresponding utilization threshold and presenting the report to an operator of said network.

The Black patent is similar in some respects to the present application, but there are significant differences. Here is an example of what the Black patent does not cover, that the present application covers:

A user or NMS queries a NE for any port resources that exceed 80% utilization. The NE returns a list of three ports that meet this condition. This is done without any access to a configuration database, without specifying which resources (but rather the resource type) and without any polling or updates to the NMS.

Differences between the Black patent and the instant application include *inter alia*:

1. Whereas, the Black patent focuses on NE health monitoring to minimize network outages, and informing the NMS when a threshold condition is exceeded the present application focuses on network planning and efficiency of resource utilization as part of a circuit switched network.

Serial No. 10/670,257 Page 19

2. Whereas, the Black patent allows for threshold based queries on a defined resource (or set of resources), the present application allows for a query on all resources of a particular type to determine if any of the resources exceed a threshold. For example, one of the queries may be to "find any resource of type port that exceeds 80% bandwidth utilization". The emphasis is on "resources of a particular type".

3. Whereas, the Black patent indicates that the "threshold expression" be stored in a configuration database, and when such threshold is crossed, a notification is sent to the NMS. In contrast, the present application has the NMS querying the resources to see if a threshold has been crossed in that snapshot in time.

The rejection of claims 7, 8, 13-16, 23, 24, 29-32, 38 and 43 under 35 U.S.C. 103(a) as being unpatentable over Black is respectfully traversed.

As is shown above, Black neither anticipates nor makes obvious the present invention, and in fact the focus of Black and the focus of the present application is entirely different.

Serial No. 10/670,257 Page 20

In view of the foregoing, further and favorable reconsideration is respectfully requested.

Respectfully submitted,

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Date: August 14, 2007

In the event this paper is deemed not timely filed, the applicant hereby petitions for an appropriate extension of time. The fee for this extension may be charged to Deposit Account No. 26-0090 along with any other additional fees which may be required with respect to this paper.

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